

From: [Vrooman Gary L](#)
To: [Cora, Lori](#)
Subject: RE: Portland Harbor Institutional Controls
Date: Tuesday, April 07, 2015 10:01:58 AM

Thanks Lori. We'll take a look at this and get back to you.

Gary Vrooman
Assistant Attorney General
Natural Resources Section
Oregon Department of Justice

From: Cora, Lori [mailto:Cora.Lori@epa.gov]
Sent: Tuesday, April 07, 2015 9:34 AM
To: Vrooman Gary L
Subject: Portland Harbor Institutional Controls

Hi, Gary. How are you? As part of developing the remedial alternatives and analyzing them under the 9 criteria, EPA is thinking about what institutional controls may be available and develop some information about their implementability, reliability and long-term effectiveness.

As you know, EPA's remedy will be taken primarily in the river and on some of the river banks. It is anticipated that some contamination will be left in place under caps or some other type of engineered remedy and at the subsurface where no active remediation may be done on the surface, thus, ICs will be necessary to protect the remedy and avoid exposure to subsurface contamination. The actions will be taken on both private property as well state-owned submerged lands.

Can you provide me with information on institutional controls that DEQ has used at cleanup sites that involved state-owned lands? Can DEQ use its hazardous substances easement and equitable servitude to restrict uses on sediment caps on state lands? If not, do you know how use restrictions may be executed and implemented on state lands? We understand DSL will have a role in accepting and implementing the restrictions. I'm looking for information on any state legal vehicle/tool(s) that may be available to assure protection of the remedy over time.

Will DEQ be willing to use easements and equitable servitudes on property that require restricted use under EPA's ROD? Any other information you or DEQ may have about institutional controls that have been used in the state of Oregon would be appreciated. I would appreciate getting a response by the end of April. Thanks. Please feel free to give me a call if you have questions.

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